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FISCAL IMPACT REPORT

SPONSOR: Aragon DATE TYPED: 02/15/01 HB

SHORT TITLE: Local Option Food Gross Receipts Tax Act SB 367

ANALYST: Eaton

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	**FY02**			
	$ (24,100.0)	$ (58,900.0)	Recurring	General Fund
	$ (8,700.0)	$ (21,300.0)	Recurring	Municipal 1.225% Distribution
	$ (7,800.0)	$ (19,000.0)	Recurring	Municipal Local Option Taxes*
	$ (2,500.0)	$ (6,100.0)	Recurring	Counties*

* These amounts may be recovered by the counties and municipalities by enacting the new County or Municipal Food Gross Receipts Tax.

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to House Bill 468 – which proposes a taxpayer credit for the state portion of gross receipts tax on food for home consumption. This bill (SB 367) repeals the gross receipts tax on food but allows local governments to impose a new local government gross receipts at the stated local option rate.

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill would repeal the gross receipts tax on food effective January 1, 2002. Simultaneously, it allows local governments to preserve at least a portion of the gross receipts tax currently imposed on the sale of food and distributed to counties and municipalities. The bill accomplishes this by enacting a new tax act: Municipal Food Gross Receipts Tax and the County Food Gross Receipts Tax, applicable only for municipalities and counties. Both taxes, taken together, are subsumed in the Local Option Food Gross Receipts Tax Act. No referendum is required. The makeup food tax rate does not include the 1.225% state shared distribution to municipalities. The Taxation and Revenue Department (TRD) will administer the tax just like the gross receipts tax act.

The Local Option Food Gross Receipts Tax Act is effective July 1, 2001. This will allow counties and municipalities six months to propose, advertise, enact an ordinance, sustain the possibility of a negative referendum and notify the Department of their actions by September 30, 2001 for a makeup tax effective January 1, 2002. Food (for state tax purposes) becomes deductible effective January 1, 2002.

Significant Issues

The bill contains language allowing substitute payments from the state general fund for situations where the decreased revenue to counties or municipalities from the repeal of the gross receipts tax distributions impairs any bond payment:

> ***"If any reduction to the distribution pursuant to this section resulting from the [repeal of the gross receipts tax on food] impairs the ability of a municipality to meet its principal or interest payment obligations for revenue bonds outstanding prior to January 1, 2000 that are secured by the pledge of all or part of the municipality's revenue from the distribution made pursuant to this section, the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet any required payment."***

The Department of Finance and Administration (DFA) Local Government Division report that as of June 30, 1999, municipalities had $413.2 million in outstanding gross receipts tax revenue bonds. Counties had $204.5 million in outstanding gross receipts tax revenue bonds.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) estimate that this bill would reduce general fund revenue in FY02 by $24.1 million. Local government revenues would decrease by $19 million. If the local governments reimpose the local option taxes fully and at the earliest possible time, local revenues would decrease $8.7 million in FY02. The FY02 impact reflects five months of impact after the January 1, 2002 effective date for the repeal. The following table illustrates the five year impacts as estimated by TRD.

ADMINISTRATIVE IMPLICATIONS

The Taxation and Revenue Department (TRD) indicate that this bill will cause a major impact on

ESTIMATED FISCAL IMPACT
(millions of dollars)

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
General Fund	(24.1)	(58.9)	(60.1)	(61.4)	(62.8)
Municipal 1.225%	(8.7)	(21.3)	(21.7)	(22.2)	(22.7)
Municipal Local Option Taxes*	(7.8)	(19.0)	(19.3)	(19.7)	(20.1)
Counties*	(2.5)	(6.1)	(6.2)	(6.3)	(6.5)
Local Re-imposition of Tax Options	10.3	25.1	25.5	26.0	26.6
Municipal Net Loss	(8.7)	(21.3)	(21.7)	(22.2)	(22.7)
TOTAL REVENUE IMPACT (w/ local re-imposition)	**(32.8)**	**(80.2)**	**(81.8)**	**(83.6)**	**(85.5)**

* These amounts may be recovered by the counties and municipalities by enacting the new County or Municipal Food Gross Receipts Tax.

Source: Taxation and Revenue Department

revenue processing, forms development, systems maintenance, as well as regulation. It is estimated to take six months of analysis, design and programming. TRD would request an appropriation of $1 million to contract this work to ISD or an outside vendor. TRD reports that without this appropriation, there will be no feasible way to accomplish these changes by January 1, 2002. TRD also indicate that in the longer term, there may be significant increases in processing costs. The request for these on-going expenses would be included in the agency budget request for FY 2003.

TRD suggest that making the food gross receipts tax rate exactly the same as the gross receipts tax local option rate rather than "at a rate equal to or less than the aggregate of all local option gross receipts tax rates" would simplify the programming.

TECHNICAL ISSUES

The Taxation and Revenue Department (TRD) report that the "local option food gross receipts tax" should be included in the list of "excludes" in 7-9-3(F)(2)(b) NMSA (Section 13 of the bill). Without this amendment, amounts collected by grocers and others to reimburse them for local option food gross receipts tax liability would be subject to the regular gross receipts tax at the regular rate. TRD also report that the food stamp exemption of 7-9-18.1 NMSA 1978 must be included in the new Local Option Food Gross Receipts Tax Act.

JBE/ar/njw